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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91218592
Party	Defendant Jios Aerogel Limited
Correspondence Address	VICTOR T. FU LKP GLOBAL LAW, LLP STE 480 1901 AVENUE OF THE STARS LOS ANGELES, CA 90067 vfu@lkgpl.com
Submission	Answer
Filer's Name	Victor T. Fu
Filer's e-mail	vfu@lkgpl.com
Signature	/Victor T. Fu/
Date	10/30/2014
Attachments	Jios Answer to Notice of Opposition.pdf(144613 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of U.S. Application Serial No. 86/124715
Mark: AEROVA

EVONIK DEGUSSA GMBH)	
)	
Opposer,)	
v.)	Opposition No. 91218592
)	
JIOS AEROGEL LIMITED)	
)	
Applicant.)	
)	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant Jios Aerogel Limited (“Applicant”), for its answer to the Notice of Opposition filed by Evonik Degussa GmbH (“Opposer”) against the application for registration of the mark “AEROVA”, Serial No. 86/124715, filed on November 20, 2013, and published in the Official Gazette on June 3, 2014, pleads and avers as follows:

1. In response to Paragraph 1 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.
2. In response to Paragraph 2 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.
3. In response to Paragraph 3 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

4. In response to Paragraph 4 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

5. In response to Paragraph 5 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

6. In response to Paragraph 6 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

7. In response to Paragraph 7 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

8. In response to Paragraph 8 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

9. In response to Paragraph 9 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

10. In response to Paragraph 10 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

11. In response to Paragraph 11 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

12. In response to Paragraph 12 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

13. In response to Paragraph 13 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

14. In response to Paragraph 14 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

15. In response to Paragraph 15 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

16. In response to Paragraph 16 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

17. In response to Paragraph 17 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

18. In response to Paragraph 18 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

19. In response to Paragraph 19 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning Opposer's rights in and to its alleged trademarks. Applicant admits that, on November 20, 2013, Applicant filed its registration for the mark AeroVa.

20. In response to Paragraph 20 of the Notice of Opposition, Applicant admits the allegations contained therein.

21. In response to Paragraph 21 of the Notice of Opposition, Applicant admits the allegations contained therein.

22. In response to Paragraph 22 of the Notice of Opposition, Applicant denies all allegations contained therein.

23. In response to Paragraph 23 of the Notice of Opposition, Applicant denies all allegations contained therein.

24. In response to Paragraph 24 of the Notice of Opposition, Applicant denies all allegations contained therein.

25. In response to Paragraph 25 of the Notice of Opposition, Applicant denies all allegations contained therein.

26. In response to Paragraph 26 of the Notice of Opposition, Applicant denies all allegations contained therein.

27. In response to Paragraph 27 of the Notice of Opposition, Applicant denies all allegations contained therein.

28. In response to Paragraph 28 of the Notice of Opposition, Applicant denies all allegations contained therein.

29. In response to Paragraph 29 of the Notice of Opposition, Applicant denies all allegations contained therein.

30. In response to Paragraph 30 of the Notice of Opposition, Applicant denies all allegations contained therein.

31. In response to Paragraph 31 of the Notice of Opposition, Applicant denies all allegations contained therein.

32. In response to Paragraph 32 of the Notice of Opposition, Applicant denies all allegations contained therein.

33. In response to Paragraph 33 of the Notice of Opposition, Applicant is without sufficient information or knowledge concerning the allegations to form a belief as to the truth of the allegations and, therefore, denies the allegations.

AFFIRMATIVE DEFENSES

Applicant submits the following affirmative defenses to the Notice of Opposition:

FIRST AFFIRMATIVE DEFENSE

(LACK OF STANDING)

1. Opposer has not been and will not be damaged by Applicant's registration of the AEROVA mark in the classes and goods covered and, therefore, Opposer lacks standing to oppose registration of the mark.

SECOND AFFIRMATIVE DEFENSE

(FAILURE TO STATE A CLAIM)

2. Opposer's Notice of Opposition fails to state a claim upon which relief may be granted, including, without limitation, on the grounds that Applicant's AEROVA trademark is not likely to be confused with Opposer's AEROSIL, NIPPON AEROSIL, and AEROXIDE trademarks.

THIRD AFFIRMATIVE DEFENSE

(ESTOPPEL)

3. Opposer is estopped from opposing Applicant's trademark application for AEROVA.

FOURTH AFFIRMATIVE DEFENSE

(WAIVER)

4. Opposer has waived any right to Applicant's trademark application for


AEROVA.

WHEREFORE, Applicant prays that the Trademark Trial and Appeal Board dismiss the Opposer's Notice of Opposition with prejudice and permit the registration of Applicant's proposed mark in Application Serial No. 86/124715 in the United States Patent and Trademark Office.

Respectfully submitted,

DATE: October 27, 2014

LKP GLOBAL LAW, LLP

By: 
Victor T. Fu
Joseph H. Park
Attorneys for Applicant,
Jios Aerogel Limited

CERTIFICATE OF ELECTONIC FILING & SERVICE

I hereby certify that the enclosed APPLICANT'S ANSWER TO NOTICE OF OPPOSITION is being submitted to the Trademark Trial and Appeal Board via electronic means by filing with the Electronic Systems for Trademark Trial and Appeal on October 27, 2014. A true and correct copy is also being deposited with the United States Postal Service under 37 CFR § 1.10 on the date indicated below and is addressed to the following:

Scott D. Woldow
Smith, Gambrell & Russell, LLP
1055 Thomas Jefferson St. NW, Suite 400
Washington, DC 20007
Attorneys for Evonik Degussa GmbH

Dated:

October 27, 2014

Signature:



Victor T. Fu